THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No.6429 of 2006

Dt.31.3.2006

Between:

Smt.Rajeswari … Petitioner

And

Municipal Corporation of Hyderabad,

Rep. By its Commissioner, Tank Bund

Hyderabad.

…Respondent

ORDER:

Petitioner questions the action of the respondent in threatening to demolish on 28.3.2006 in respect of the property Ground floor Mulgi bearing Municipal No.7-1-621/11/C&D admeasuring 350 sq.ft. situated at S.R.Nagar, Hyderabad as illegal and arbitrary.

The case of the petitioner is that the petitioner is the tenant in the ground floor Mulgi bearing Municipal No.7-1-621/11/C&D

admeasuring 350 sq.ft. When the landlord in collusion with the respondent trying to dismantle the said mulgies, the petitioner filed O.S.No.3268 of 2000 on the file of the IV Junior Civil Judge, City Civil Court, Hyderabad, for perpetual injunction and the same was decreed in favour of the petitioner on 9.7.2002. Again the respondent on the pretext of road widening came to the petitioner on 28.3.2006 and threatening to demolish the said property without issuing any notice or without initiating land acquisition proceedings.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent.

The learned counsel for the petitioner submits that the action of the respondent without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or byway of initiating proceedings under the Land Acquisition Act is in violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act, 1955 (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property private individual is coming in the way, it is for the respondent to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the property of private citizens without following due process of law. Though the petitioner is a tenant, he is also entitled for issuance of notice before demolition of the property in question for the purpose of road widening under Sections 146 or 147 of the Act. Having regard to the facts and circumstances of the case, the respondent is directed not to demolish any portion of the property in respect of Ground floor Mulgi bearing Municipal No.7-1-621/11/C&D admeasuring 350 sq.ft., situated at S.R.Nagar, Hyderabad, without following the due process of law either under Sections 146 or 147 of the Act or by private negotiations or by initiating proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of. No order as to costs.

V.ESWARAIAH, J.

31.3.2006

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